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RUEHLGB/AMEMBASSY KIGALI 0032  
RUEHDR/AMEMBASSY DAR ES SALAAM 0121  
RUEHJB/AMEMBASSY BUJUMBURA 0005  
RUEHKB/AMEMBASSY KINSHASA 0031  
RUEHLA/AMCONSUL BARCELONA 3389  
RUEHGV/USMISSION GENEVA 0879  
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RUEHUNV/USMISSION UNVIE VIENNA 0079  
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C O N F I D E N T I A L SECTION 01 OF 04 MADRID 000409

SIPDIS

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AF/C FOR FOX, CASEY  
L/LEI FOR BUCHHOLZ, PROPP, JOHNSON  
L-EUR FOR PETER OLSON, KAREN JOHNSON  
L-AN FOR ONA HAHS  
KIGALI FOR KAMINSKI  
THE HAGUE FOR SCHILDGE

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TAGS: [PREL](#) [PHUM](#) [MASS](#) [KLIG](#) [OFDP](#) [RW](#) [SP](#)  
SUBJECT: RWANDA/SPAIN: FURTHER INFORMATION ON INDICTMENTS

REF: A. FOX-SAMSON-DUNCAN E-MAILS 4/13-14/08  
[1](#)B. USUN 297  
[1](#)C. KIGALI 246  
[1](#)D. KIGALI 237  
[1](#)E. KIGALI 227  
[1](#)F. MADRID 313

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Classified By: ADCM Josie Shumake for reasons 1.4 (b) and (d)

[1](#)1. (C) SUMMARY: Post offers the following answers in response to ref A questions from Department regarding the Spanish indictment of 40 Rwandan military officers. END SUMMARY.

[1](#)2. (C) WHAT IS THE RELATIONSHIP BETWEEN JUDGE ANDREU AND THE MINISTRY OF JUSTICE? Judge Andreu is completely independent of the Ministry of Justice, and the MOJ cannot exert influence over his investigation or findings. Requests for Interpol red notices go through the Ministry of Justice as a matter of administrative procedure, but the MOJ does not have the ability to refuse or deny the requests.

[1](#)3. (C) WHAT IS THE ATTITUDE OF THE GOS ABOUT THE INDICTMENT? Per ref F and previous, Spanish MFA Deputy DG for Sub-Saharan Africa told Poloff that the GOS does not support the indictments but can do nothing to stop them.

[1](#)4. (C) IS THERE ANYTHING THE GOS COULD/MIGHT DO TO ALLEVIATE / MINIMIZE THE EFFECT OF THE INDICTMENTS? The GOS has historically claimed impotence in influencing the independent judiciary in other cases, including Pinochet, Couso and Rumsfeld indictments. Furthermore, because 15 of the indicted individuals are wanted in connection with the death of Spanish citizens, the government could face public criticism both for "meddling" in judicial affairs, and for "protecting" killers of Spaniards. Therefore, we think such

intervention unlikely.

15. (C) PLEASE PROVIDE MORE INFO ABOUT THE NGO BEHIND THE INVESTIGATION AND PROSECUTION. IS IT ALL/MOSTLY PEOPLE RELATED TO / ASSOCIATED WITH THE SPANIARDS WHO WERE KILLED OR IS IT RWANDAN EXILES? The NGO is Veritas Rwanda Forum ([www.veritasrwandaforum.org](http://www.veritasrwandaforum.org)). It's full name is Forum Internacional para la Verdad y la Justicia en el Africa de los Grandes Lagos (International Forum for Truth and Justice in Great Lakes Africa). Its leadership is comprised of Spaniard Juan Carrero Saralegui, Spaniard Jordi Palou Loverdos, Spaniard (and Nobel Peace Prize winner) Adolfo Perez Esquivel, American and former Congresswoman Cynthia McKinney, Spaniard Irma Rognoni Viader, and Spaniard Federico Mayor Zaragoza. It was founded in March 2000. The group filed their lawsuit with Judge Andreu on February 22, 2005, claiming they had 40 witnesses who could attribute the deaths of the Spanish citizens to the RPF. Jordi Palou is the group's legal representative and spokesman. Most of the witnesses who are cited in the indictment are in fact Rwandan exiles. Post cannot speak to their legitimacy and would defer to AF.

16. (C) WHAT HAS BEEN THE REACTION TO THE INDICTMENT IN THE SPANISH PRESS / PUBLIC AND FROM THE GOS? The indictments have received international and Spanish press, but little since the announcement other than the reporting of President Kagame's statements condemning the indictments. There are no media updates on the status of the prosecution's efforts or anything to that effect. Veritas Rwanda Forum led a demonstration in Brussels after the indictment's announcement. The GOS has made no public comment about the indictments. The Forum's spokesman Jordi Palou published an op-ed March 21 in left of center daily EL PAIS entitled "Rwanda: nine voices that can no longer be silenced" in

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17. (C) IS THERE MORE INTEREST IN SOME INDIVIDUALS INDICTED THAN OTHERS? THE UNAMID DEPUTY COMMANDING GENERAL KARAKE? FOR THE ONES WHO ARE INDICTED DIRECTLY IN CONNECTION WITH THE DEATHS OF THE SPANISH CITIZENS? WHAT ABOUT THE ONES WHO ARE GENERALLY ACCUSED OF CRIMES AGAINST HUMANITY / GENOCIDE, WITHOUT SPECIFIC INCIDENTS? Fifteen of the forty indictees (#'s 3, 5, 6, 8, 11, 12, 13, 14, 15, 16, 17, 19, 23, 24, 29) are wanted for the murder of the nine Spanish citizens. These would naturally be of greater interest. Karake, who is defendant #4, is not sought in connection with the Spaniards, but he is sought for a series of other crimes and alleged massacres. Palou was quoted in an August 2007 article in The Guardian as opposing the UN appointment of Karake to UNAMID/AMIS.

18. (C) WHAT ARE THE PUBLIC DIPLOMACY IMPLICATIONS OF THE CASE IF ANY OF THE INDICTEES TRAVEL TO THE U.S.? Veritas Rwanda Forum already seems to accept as dogma that the current GOR enjoys the protection of the USG, so travel to the U.S. would only confirm these theories. It would not look good if any of the indictees were to receive U.S.-funded training, etc. It would be especially awkward if it were one of the 15 who are sought in connection with the death of Spaniards. It would be a serious problem if the USG failed to honor a red notice, provisional arrest request, or extradition request for one of the 15 indictees sought for murdering the Spaniards, especially with respect to other ongoing bilateral extradition and judicial matters.

19. (C) WHAT ARE THE POLICY IMPLICATIONS? We are currently following several important bilateral judicial cases - the pending extradition from Spain of notorious arms dealer Monzer Al-Kassar being the most important. A U.S. failure to produce a third-country individual wanted in connection with the death of a Spanish citizen could have an adverse impact on our attempt to extradite Al-Kassar, a Syrian national, from Spain. In addition, Spain has outstanding arrest warrants for three U.S. soldiers who are wanted to stand trial for the death of Spanish journalist Jos Couso (killed

in Iraq in 2003), although the U.S. military has cleared the soldiers of any wrongdoing after a thorough investigation. A Spanish woman is being held in contempt by a New Jersey court over a custody dispute with her Amcit ex-husband. A separate Spanish judge has opened a prosecution against former SecDef Rumsfeld, although authorities have not sought his international arrest. Additionally, ref B brings up the possibility that General Karake's removal from UNAMID could endanger the Rwandan commitment to Darfur PKO. Post believes this could be a strong argument to use if Department instructs us to weigh in with the GOS.

¶10. (C) PLEASE PROVIDE MORE INFO ABOUT THE SPANISH JUDICIAL PROCESS. The Spanish judiciary is completely independent from the executive and legislative branch, and the Spanish Constitution gives the judiciary a "universal" mandate to prosecute human rights violations anywhere in the world. The most famous previous attempted prosecution was of Augusto Pinochet, and the Spanish government did not seek to interfere with the judiciary in that case, although Pinochet was never successfully extradited to Spain. Other cases have included investigation of human rights abuses in Argentina during the Dirty War and for an attack against the Spanish Embassy in Guatemala in the 1980's. Former Secretary of Defense Rumsfeld is also named in an active indictment over the Iraq War. Other ongoing judicial investigations with U.S. implications include inquiries into alleged CIA flights

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that transited Spain as well as other DOD flights which transited the Spanish bases of Moron and Rota. Although judicial officials have not sought to involve Interpol in all of these instances, government sources told Embassy officers that they would do so in this case (ref F).

¶11. (C) WHAT IS THE MAGISTRATE'S FUTURE ROLE? CAN HE REQUEST INTERPOL DIFFUSIONS ON HIS OWN? DO THEY HAVE TO GO THROUGH THE MOJ? The procedure for seeking diffusions leads from the indicting court through the National Police to the Justice Ministry to Interpol, but the Justice Ministry's role is administrative, and it cannot refuse to send the request along. However, even if it could, we think it would be highly unlikely to do so in this case given that 15 of the individuals are wanted in connection with the death of Spanish citizens. The Spanish National Police can also seek Red Notices on their own without consulting Judge Andreu, based on the existence of Spanish arrest warrants for the individuals, also through the Justice Ministry. We have no indication that they are doing so at this time. Judge Andreu is a Magistrate in the National Court, the second highest court in Spain. He has held the post since March 2002, and he has been a judge in the Spanish judiciary for over 20 years.

¶12. (C) WHAT DISCRETION DOES THE MAGISTRATE HAVE IN DECIDING WHETHER TO REQUEST DIFFUSIONS? The National Court has discretion based on the known whereabouts of the particular individual and the strength of their case. For example, an Interpol Red Notice would be unnecessary inside the EU, since an EU arrest order would be sufficient.

¶13. (C) MUST ALL INDICTED DEFENDANTS HAVE SUCH NOTICES PUT OUT ON THEM? We do not think so, but we can hardly ask. It is possible that the first notice requested by Spain for Mr. Kabarebe was sent out as a trial balloon to see how Interpol would handle the diffusions, thus avoiding potential embarrassment for Spain if Interpol were to reject all 40 notices out of hand (ref E).

¶14. (C) WHAT EFFECT DOES THIS HAVE IN SCHENGEN COUNTRIES? We believe an EU arrest order would be sufficient (and would preclude the GOR from challenging the validity of the Red Notice).

¶15. (C) WHAT DOES THE GOS KNOW ABOUT THE INVESTIGATIVE PROCESS THAT LED TO THE INDICTMENT? Responding to informal

inquiries, MFA and judiciary officials have told Emboffs that the investigation was very thorough, lasting over two years. Public documents indicate that the NGO Veritas Rwanda Forum filed a complaint with the National Court in February 2005, and that Judge Andreu agreed to take the case the same year. Subsequent testimony and evidence gathering lasted two years, with over forty witnesses produced by Veritas Rwanda Forum. MFA interlocutors have said that the GOS does not support the indictments and believes the ICTR and other international bodies are the appropriate fora to seek justice, although they have also stated their commitment to justice for the nine Spaniards killed.

¶16. (C) COMMENT: The GOS supports UNAMID, is committed to peace in Africa, and has told us privately that it does not support the indictments. Nevertheless, it will likely claim it is powerless to control the judiciary, and we should not expect the GOS to go out of its way to obstruct its own courts in prosecuting the murder of Spanish citizens. We remain concerned that a dust-up over a Spanish extradition or provisional arrest request could cause problems for the U.S. extradition request of Monzer Al-Kassar. As previously stated, we have no ability to independently verify the testimony and allegations contained in the indictment, nor

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the credibility of the witnesses who testified. END COMMENT.  
AGUIRRE